IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.3824 OF 1999

Sou.Pramila Dilip Deshmukh .. Petitioner
V/s
State of Maharashtra & Ors. .. Respondents

Mr.A.M.Joshi with Mr.S.D.Rayrikar for the Petitioner.
Mr.Vinay Sonpal, AGP for Respondent Nos.1 to 3.

CORAM : B.H.MARLAPALLE & NARESH H.PATIL, JJ.
DATE : 13th September, 2006.

P.C.:

1. In this petition filed under Articles 226 and 227 of the Constitution, the Petitioner has challenged an order dated 3.3.1998 passed by Respondent No.5 thereby reducing the Petitioner's Pay Scale from Rs.1400-2600 to Rs.975-1660.

2. The Petitioner possesses the qualification of B.A.B.Ed. and was appointed as an Assistant Teacher with effect from 6.6.1994 by Respondent No.6 - Krantivir Chafekar Shikshan Sanstha, Chinchwadgaon, in its primary School by name Krantivir Chafekar Vidya Mandir, Chinchwadgaon, that is within the Corporation limits of Respondent No.5. Her appointment was approved by Respondent No.5 vide his order dated 21.11.1994 in the Pay Scale of Rs.1400-2600. However, the said Respondent No.5 appears to have communicated to the Respondent No.6 vide his letter dated 20.2.1998 that the petitioner would have to be placed in the Pay Scale of Rs.975-1660

w.e.f.January, 1998 on account of her not possessing the B.Ed.qualification necessary for appointment as an Assistant Teacher in the primary School and consequently, by the communication dated 3.3.1998 Respondent No.6 called upon the Petitioner and conveyed the decision of Respondent No.5 regarding the reduction of her pay scale.

3. There is no doubt that the Petitioner is not qualified to be appointed as an Assistant Teacher in the primary School which has classes upto 4th standard. However, the Govt. of Maharashtra issued a Circular/G.R. dated 14.11.1979 stating that the primary School having more than 4 years admissible for 5th to 7th Standard Classes, 25% of the total staff is required to be recruited from amongst the trained teachers. i.e.graduate degree plus D.Ed.or B.Ed. Approval order passed by Respondent No.5 on 21.11.1994 shows that the Krantivir Chafekar Vidya Mandir had classes at the relevant time from 1st to 7th standard and therefore, it is covered by the Circular/G.R. dated 14.11.1979. The Petitioner claims to be the only teacher with the qualification of B.A.B.Ed. and thus falls within the 25% quota. This contention has not been disputed by Respondent No.5 or Respondent Nos.2 to 4 by filing any affidavit in reply all these years. We will have therefore to accept the contentions of the Petitioner that she is the only trained graduate teacher with Krantivir Chafekar Vidya Mandir, the primary School

running classes upto 7th standard.

4. In the premises, this petition succeeds and the same is hereby allowed and Rule is made absolute in terms of prayer clause (b), but without any order as to costs.

(NARESH H.PATIL,J.) **(B.H.MARLAPALLE, J.)**